



Senate

General Assembly

February Session, 2012

File No. 575

Senate Bill No. 354

Senate, April 23, 2012

The Committee on Finance, Revenue and Bonding reported through SEN. DAILY of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING THE ENHANCED EMERGENCY 9-1-1 PROGRAM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 28-30b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective January 1, 2013*):

3 As used in sections [28-30b to 28-30d, inclusive] 28-30a, as amended
4 by this act, 28-30b, as amended by this act, and 28-30d, and section 2 of
5 this act:

6 (1) ["Active prepaid wireless telephone service" means a prepaid
7 wireless telephone service that has an account that has a positive
8 balance greater than or equivalent to the fee to fund the enhanced
9 emergency 9-1-1 program pursuant to section 16-256g.] "Consumer"
10 means a person who purchases prepaid wireless telecommunications
11 service in a retail transaction.

12 (2) "Prepaid wireless E 9-1-1 fee" means the charge that any seller

13 collects from a consumer in an amount established by section 2 of this
14 act.

15 [(2)] (3) "Prepaid wireless [telephone] telecommunications service"
16 means a wireless telephone service that [is activated in advance by
17 payment for a finite dollar amount of service or for a finite set of
18 minutes that terminate either upon use by a subscriber and delivery by
19 the wireless provider of an agreed upon amount of service
20 corresponding to the total dollar amount paid in advance or within a
21 certain period of time following the initial purchase or activation,
22 unless additional payments are made] a consumer pays for in advance,
23 that allows the consumer to access the E 9-1-1 system by dialing 9-1-1,
24 and that is sold in predetermined units or dollars and such units or
25 dollars decline with use.

26 [(3) "Mobile telephone number" or "MTN" means the telephone
27 number assigned to a wireless telephone at the time of activation.]

28 (4) "Provider" means any person who provides prepaid wireless
29 telecommunications service pursuant to a license issued by the Federal
30 Communications Commission.

31 (5) "Retail transaction" means a purchase of prepaid wireless
32 telecommunications service from a seller for any purpose other than
33 resale.

34 (6) "Seller" means a person who sells prepaid wireless
35 telecommunications service to a consumer.

36 [(4)] (7) "Voice over Internet protocol service" or "VOIP" means a
37 service that has the following characteristics: (A) Enables real-time,
38 two-way voice communication; (B) requires a broadband connection
39 from the users' locations; (C) requires IP-compatible customer
40 premises equipment; and (D) allows subscribers generally to receive
41 calls that originate on the public switched telephone network and to
42 terminate calls on the public switched telephone.

43 [(5)] (8) "Voice over Internet protocol service provider" or "VOIP

44 service provider" means a company that provides VOIP telephone
45 service.

46 (9) "Wireless telecommunications service" means commercial mobile
47 radio service, as defined in 47 CFR Section 20.3, as from time to time
48 amended.

49 Sec. 2. (NEW) (*Effective January 1, 2013*) (a) Each consumer shall be
50 assessed a prepaid wireless E 9-1-1 fee. Such fee shall be fifty cents for
51 each retail transaction. For the purposes of this section, if a consumer
52 purchase includes multiple prepaid wireless telecommunications
53 services, each such individual service shall constitute a retail
54 transaction.

55 (b) Any seller who is a party to a retail transaction within this state
56 with a consumer shall collect the fee described in subsection (a) of this
57 section from such consumer for each such retail transaction. The seller
58 shall disclose to the consumer the amount of such assessed fee in an
59 invoice, a receipt, or other similar document, or post such amount
60 conspicuously on the seller's Internet web site or on a sign
61 conspicuously displayed to the consumer at the point of sale.

62 (c) For the purposes of subsection (b) of this section, a retail
63 transaction made in the presence of the consumer at the place of
64 business of the seller shall be treated as occurring within this state if
65 such place of business is within the state, and any other retail
66 transaction shall be treated as occurring in this state if the retail
67 transaction is treated as occurring in this state under subdivision (2) of
68 subsection (a) of section 12-407 of the general statutes, for the purposes
69 of the sales and use tax.

70 (d) The consumer shall be liable for any prepaid wireless E 9-1-1 fee.
71 There shall be no liability on the part of the seller or provider, except
72 the seller shall be liable to remit any prepaid wireless E 9-1-1 fees that
73 the seller collects from any consumer, pursuant to section 3 of this act,
74 including, but not limited to, any such fee that the seller is required to
75 collect but does not separately state on an invoice, receipt or other

76 similar document provided to the consumer, as required by subsection
77 (b) of this section.

78 (e) The amount of the prepaid wireless E 9-1-1 fee that a seller
79 collects from a consumer shall not be included in the base for
80 measuring any tax, fee, surcharge or other charge that the state, any
81 political subdivision of the state, or any intergovernmental agency
82 imposes on such seller, provided the seller separately stated such
83 amount on an invoice, receipt, or other similar document provided to
84 the consumer.

85 Sec. 3. (NEW) (*Effective January 1, 2013*) (a) Any seller who collects a
86 prepaid wireless E 9-1-1 charge shall remit such fee to the Department
87 of Revenue Services at such time and in such manner as required by
88 chapter 219 of the general statutes. The department shall establish
89 registration and payment procedures that substantially coincide with
90 the registration and payment procedures that apply to retail sellers
91 under said chapter 219.

92 (b) Notwithstanding the provisions of chapter 219 of the general
93 statutes, a seller who collects a prepaid wireless E 9-1-1 fee may retain
94 one per cent of such fee.

95 (c) The audit and appeal procedures applicable under chapter 219 of
96 the general statutes shall apply to each prepaid wireless E 9-1-1 fee.

97 (d) The department shall establish procedures by which a seller of
98 prepaid wireless telecommunications service may document that a sale
99 is not a retail transaction, which procedures shall substantially
100 coincide with the procedures for documenting sale for resale
101 transactions pursuant to section 12-410 of the general statutes.

102 (e) The department shall, not later than thirty days after receiving
103 any prepaid wireless E 9-1-1 fee, transfer such fee to the office of the
104 State Treasurer for deposit into the Enhanced 9-1-1
105 Telecommunications Fund, established pursuant to section 28-30a of
106 the general statutes, as amended by this act. Any revenue from the

107 prepaid wireless E 9-1-1 fee shall be subject to any restrictions
108 provided by said section 28-30a. The department may make a one-time
109 deduction of not more than one hundred twenty thousand dollars
110 from such fund and may use said amount to reimburse its direct costs
111 of administering the collection and remittance of prepaid wireless E 9-
112 1-1 fees.

113 Sec. 4. Section 28-25 of the general statutes is amended by adding
114 subdivisions (18) and (19) as follows (*Effective January 1, 2013*):

115 (NEW) (18) "Certified telecommunications provider" has the same
116 meaning as provided in section 16-1.

117 (NEW) (19) "Prepaid wireless telecommunications service" has the
118 same meaning as provided in section 28-30b, as amended by this act.

119 Sec. 5. Subsection (d) of section 28-28a of the 2012 supplement to the
120 general statutes is repealed and the following is substituted in lieu
121 thereof (*Effective January 1, 2013*):

122 (d) No telephone company, [or its agents] certified
123 telecommunications provider, provider of wireless
124 telecommunications service pursuant to a license issued by the Federal
125 Communications Commission, provider of prepaid wireless
126 telecommunications service, or the agents of any such company or
127 provider and no voice over Internet protocol service provider or its
128 agents shall be liable to any person or entity for release of the
129 information specified in this section [,] or for any failure of equipment
130 or procedure in connection with the enhanced 9-1-1 service or an
131 emergency notification system established under sections 28-25 to 28-
132 29b, inclusive, as amended by this act.

133 Sec. 6. Subsection (a) of section 28-30a of the general statutes is
134 repealed and the following is substituted in lieu thereof (*Effective*
135 *January 1, 2013*):

136 (a) There is established a fund to be known as the "Enhanced 9-1-1
137 Telecommunications Fund". The fund shall contain any moneys

138 required by law to be deposited in the fund, including, but not limited
139 to, any federal funds collected pursuant to subsection (d) of section 28-
140 24 and fees assessed against subscribers of local telephone service,
141 [and] subscribers of commercial mobile radio services [,] pursuant to
142 section 16-256g, as amended by this act, and revenues from the
143 prepaid wireless E 9-1-1 fee imposed pursuant to section 2 of this act.
144 The Enhanced 9-1-1 Telecommunications Fund shall be held separate
145 and apart from all other moneys, funds and accounts. Interest derived
146 from the investment of the fund shall be credited to the assets of the
147 fund. Any balance remaining in the fund at the end of any fiscal year
148 shall be carried forward in the fund for the fiscal year next succeeding.

149 Sec. 7. Section 16-256g of the general statutes is repealed and the
150 following is substituted in lieu thereof (*Effective January 1, 2013*):

151 (a) By June first of each year, the Public Utilities Regulatory
152 Authority shall conduct a proceeding to determine the amount of the
153 monthly fee to be assessed against each subscriber of: (1) Local
154 telephone service, (2) commercial mobile radio service, as defined in 47
155 CFR Section 20.3, and (3) voice over Internet protocol service, as
156 defined in section 28-30b, as amended by this act, [and (4) prepaid
157 wireless telephone service, as defined in section 28-30b,] to fund the
158 development and administration of the enhanced emergency 9-1-1
159 program. The authority shall base such fee on the findings of the
160 Commissioner of Emergency Services and Public Protection, pursuant
161 to subsection (c) of section 28-24, taking into consideration any existing
162 moneys available in the Enhanced 9-1-1 Telecommunications Fund.
163 The authority shall consider the progressive wire line inclusion
164 schedule contained in the final report of the task force to study
165 enhanced 9-1-1 telecommunications services established by public act
166 95-318. The authority shall not approve any fee (A) greater than fifty
167 cents per month per access line, [nor shall it approve any fee] (B) that
168 does not include the progressive wire line inclusion schedule, or (C)
169 for commercial mobile radio service, as defined in 47 CFR Section 20.3
170 that includes the progressive wire line inclusion schedule.

171 (b) Each telephone or telecommunications company providing local
 172 telephone service, each provider of commercial mobile radio service [,
 173 each provider of prepaid wireless telephone service] and each provider
 174 of voice over Internet protocol service shall assess against each
 175 subscriber, the fee established by the authority pursuant to subsection
 176 (a) of this section, which shall be remitted to the [Office of] office of the
 177 State Treasurer for deposit into the Enhanced 9-1-1
 178 Telecommunications Fund established pursuant to section 28-30a, as
 179 amended by this act, not later than the fifteenth day of each month.

180 (c) The fee imposed under this section shall not apply to any
 181 prepaid wireless telecommunications service, as defined in section 28-
 182 30b, as amended by this act.

183 Sec. 8. Section 28-30c of the general statutes is repealed. (*Effective*
 184 *January 1, 2013*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2013</i>	28-30b
Sec. 2	<i>January 1, 2013</i>	New section
Sec. 3	<i>January 1, 2013</i>	New section
Sec. 4	<i>January 1, 2013</i>	28-25
Sec. 5	<i>January 1, 2013</i>	28-28a(d)
Sec. 6	<i>January 1, 2013</i>	28-30a(a)
Sec. 7	<i>January 1, 2013</i>	16-256g
Sec. 8	<i>January 1, 2013</i>	Repealer section

FIN *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 13 \$	FY 14 \$
Department of Emergency Services and Public Protection	E911 Fund - Revenue Gain	\$1.9 million	\$4.2 million
Department of Revenue Services	GF - Cost	\$120,000	None

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill is anticipated to increase revenue to the Department of Emergency Services and Public Protection E911 Telecommunications Fund of approximately \$1.9 million¹ in FY 13 and \$4.2 million in FY 14. The revenue gain is comprised of two components, outlined in the following table.

Total Revenue Changes

Change	FY 13 \$ (half year)	FY 14 \$
Prepaid Mobile Phones	\$325,000	\$890,000
Single Surcharge for Wireless Phones	\$1,600,000	\$3,300,000
TOTAL	\$1,925,000	\$4,190,000

Additionally, the bill results in a one-time set-up and programming cost of \$120,000 in FY 13 to the Department of Revenue Services (DRS) related to updates to the taxpayer service center (TSC) and form creation. This cost is based on equivalent costs for the creation of new tax types. The bill allows DRS to make a one-time deduction of up to

\$120,000 from the E911 Telecommunications Fund for any direct costs of administering the collection and remittance of the fees.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

¹ Please note this amount is net of the \$120,000 allowed one-time deduction for DRS' costs of administering the program.

OLR Bill Analysis**SB 354*****AN ACT CONCERNING THE ENHANCED EMERGENCY 9-1-1 PROGRAM.*****SUMMARY:**

This bill modifies how prepaid wireless subscribers are assessed the fee that supports the Enhanced 9-1-1 (E 9-1-1) program. It eliminates the monthly fee (currently 50 cents) for subscribers and, instead, levies a 50-cent fee (prepaid wireless E 9-1-1 fee) on each purchase of prepaid wireless telecommunications services from a retailer.

The bill requires retailers to collect the prepaid wireless E 9-1-1 fee, and makes consumers liable for paying it. It allows retailers to keep 1% of the amount collected and requires them to remit the balance to the Division of Revenue Services (DRS), which must forward it to the State Treasurer's Office for deposit in the E 9-1-1 Telecommunications Fund. It allows DRS to make a one-time deduction of not more than \$120,000 from the fund for its direct costs of administering the collection and remittance of the fees.

The bill extends to telecommunications service providers, wireless telecommunications service providers, and prepaid wireless telecommunications service providers, and their agents, the immunity that currently applies to telephone companies and their agents who release 9-1-1 subscriber information as required by law.

The bill also prohibits the Public Utilities Regulatory Authority (PURA) from approving any monthly fee for commercial mobile radio service (e.g., cell phone) subscribers that includes the progressive wire line inclusion schedule. This schedule discounts the monthly rate paid by subscribers with more than one phone at a location.

It makes technical and conforming changes.

EFFECTIVE DATE: January 1, 2013

PREPAID WIRELESS FEES

E 9-1-1 Fee Assessment and Collection

Under current law, PURA must determine the monthly fee to be assessed on subscribers of the following telecommunications services: (1) local telephone, (2) commercial mobile radio service, (3) voice over Internet protocol (VOIP) (e.g., services provided by Vonage or Skype), and (4) prepaid wireless telephone service. By law, the fee is capped at 50 cents per line per month and PURA cannot approve any fee that excludes the progressive wire line inclusion schedule.

The bill creates a separate assessment method for, and replaces the monthly assessment on, people who buy prepaid wireless telecommunications service with a 50-cent per transaction assessment. For the bill's purposes, if a consumer purchase includes multiple prepaid services, each such individual service constitutes a retail transaction. It also prohibits PURA from approving any commercial mobile radio service fee that includes the progressive wire line inclusion schedule.

The bill replaces the term “prepaid wireless telephone service” with “prepaid wireless telecommunications service” to reflect the enhanced capability of current technology. It defines “prepaid wireless telecommunications service” as a service that a consumer pays for in advance, allowing him or her to access the E 9-1-1 system by dialing 9-1-1. The service is sold in predetermined units or dollars that decline with use. The bill defines a “provider” as anyone who provides prepaid wireless telecommunications service under a Federal Communications Commission license.

Collection and Remittance of E 9-1-1 Fees

Under current law, wireless service providers assess the E 9-1-1 fee against their subscribers and pay the fee monthly to the state treasurer for deposit in the E 9-1-1 fund. The bill requires any seller conducting a

retail transaction in Connecticut to collect the prepaid wireless E 9-1-1 fee from consumers when they buy prepaid wireless communications services. A retail transaction occurs in Connecticut if (1) it is made in the consumer's presence at the retailer's business place in Connecticut or (2) the customer's shipping address or, if no item is shipped, his or her billing address or the location associated with his or her mobile phone number is in Connecticut.

Retailers must disclose the amount of the fee to consumers in an invoice, a receipt, other similar document, or post it conspicuously on their website or on a conspicuous sign at the point of sale.

Liability for Fees

Consumers are liable for paying the prepaid wireless E 9-1-1 fee. Sellers and providers of prepaid wireless telecommunications services have no liability, except that they must remit any fees they are required to collect, including any fees not stated separately on an invoice, receipt, or other similar document they give to the consumer.

DRS Responsibilities

The bill allows retailers to retain 1% of the fees they collect and requires them to remit the balance to DRS by following existing sales and use tax procedures. The same audit and appeal procedures established in statute for the sales and use tax apply to prepaid wireless E 9-1-1 fees.

DRS must establish registration and payment procedures that substantially coincide with those that apply to retailers for sales and use tax purposes. It must also establish procedures by which sellers of prepaid wireless telecommunications may document that a sale is not a retail transaction. The procedures must substantially coincide with those used for documenting sale for resale transactions for sales and use tax purposes.

DRS, not later than 30 days after receiving any prepaid wireless E 9-1-1 fee, must transfer it to the state treasurer for deposit in the E 9-1-1 Telecommunications Fund. Any revenue from the prepaid wireless E

9-1-1 fee is subject to any restrictions under existing law.

Treatment of Prepaid Wireless E 9-1-1 Fees for Tax Purposes

The amount of the prepaid wireless E 9-1-1 fees that sellers collect must not be included in the base for measuring any tax, fee, surcharge, or other charge that the state, any state political subdivision, or any intergovernmental agency imposes on a seller, as long as the seller separately stated the amount in an invoice, receipt, or other similar document provided to the consumer.

E 9-1-1 LIABILITY ISSUES

By law, telephone companies and VOIP service providers must forward the telephone number and street address from which a 9-1-1 call is made to a safety answering point. The law immunizes the companies and their agents from liability for (1) releasing E 9-1-1 subscriber information in accordance with the law or (2) failure of any equipment or procedure in connection with E 9-1-1 or an emergency notification system.

BACKGROUND

The E 9-1-1 System and Funding

The E 9-1-1 system provides dispatch services to people who call 9-1-1. The emergency services and public protection commissioner (formerly the public safety commissioner) must annually determine the amount of funds needed to develop and administer the system. Funding for the system is generated by a monthly surcharge levied on all phone lines (CGS § 28-30a). PURA sets the surcharge based on cost and usage data provided by the Office of State-Wide Emergency Telecommunications (OSET).

Current rates are at the statutory cap of 50 cents per month for subscribers with a single telephone line (CGS § 16-256g). Subscribers with multiple lines are assessed on a sliding scale, starting at 50 cents for the first line. Subscribers pay the surcharge to their telephone service provider which, in turn, remits it to OSET monthly for deposit in the E 9-1-1 Telecommunications Fund.

Related Bill

sHB 5378 (File 184), favorably reported by the Public Safety and Security Committee, increases from 50 cents to 75 cents per month, per access line, the maximum amount that PURA may assess telecommunications subscribers to fund the E 9-1-1 program.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable

Yea 50 Nay 0 (04/03/2012)